

majority of its business in the United States; and

(2) Either

(i) The company is a United States owned company; or

(ii) The company is owned by a parent company incorporated in another country and the Program finds that:

(A) The company's participation in TIP would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided by the Program to promote the manufacture within the United States of products resulting from that technology, and to procure parts and materials from competitive United States suppliers; and

(B) That the parent company is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized to receive funding under the Program; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

(b) NIST may suspend a company or joint venture from continued assistance if it determines that the company, the country of incorporation of the company or a parent company, or any member of the joint venture has failed to satisfy any of the criteria contained in paragraph (a) of this section, and that it is in the national interest of the United States to do so.

(c) Members of joint ventures that are companies must be incorporated in the United States and do a majority of their business in the United States and must comply with the requirements of paragraph (a)(2) of this section. For a joint venture to be eligible for assistance, it must be comprised as defined in § 296.2.

#### **§ 296.6 Valuation of transfers.**

(a) This section applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are transferred from one joint venture member to another separately-owned joint venture member.

(b) The greater amount of the actual cost of the transferred goods and services as determined in accordance with applicable Federal cost principles, or 75 percent of the best customer price of the transferred goods and services, shall be deemed to be allowable costs. Best customer price means the GSA schedule price, or if such price is unavailable, the lowest price at which a sale was made during the last twelve months prior to the transfer of the particular good or service.

#### **§ 296.7 Joint venture registration.**

Joint ventures selected for assistance under the Program must notify the Department of Justice and the Federal Trade Commission under section 6 of the National Cooperative Research Act of 1984, as amended (15 U.S.C. 4305). No funds will be released prior to receipt by the Program of copies of such notification.

#### **§ 296.8 Joint venture agreement.**

NIST shall not issue a TIP award to a joint venture and no costs shall be incurred under a TIP project by the joint venture members until such time as a joint venture agreement has been executed by all of the joint venture members and approved by NIST.

#### **§ 296.9 Activities not permitted for joint ventures.**

The following activities are not permissible for TIP-funded joint ventures:

(a) Exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required to conduct the research and development that is the purpose of such venture;

(b) Entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving